

***United States Court of Appeals
for the Second Circuit***



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BRIEF**

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IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NOS. 74-1684, 74-2018

In the Matter of

THE LEHIGH AND HUDSON RIVER RAILWAY
COMPANY,

Debtor.

COMMONWEALTH OF PENNSYLVANIA,

Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF OF JOHN G. TROIANO, TRUSTEE OF THE PROPERTY
OF THE LEHIGH AND HUDSON RIVER RAILWAY COMPANY,
DEBTOR, APPELLEE

These are appeals by the Commonwealth of Pennsylvania from two decisions of Honorable ROBERT J. WARD, United States District Judge for the Southern District of New York before whom the Debtor, herein, THE LEHIGH AND HUDSON RIVER RAILWAY COMPANY, is in reorganization under Section 77 of the Bankruptcy Act, 11 U.S.C. 205. In such capacity Judge Ward rendered the decisions appealed from in proceedings instituted by JOHN G. TROIANO, Trustee of Debtor pursuant to the terms and provisions of The Regional Rail Reorganization Act of

1973, 45 U.S.C., 701 et seq., hereinafter referred to as "The Act". The Act requires the Reorganization Judge to render two decisions, one more commonly known as "the 120 day decision" and the other "the 180 day decision." The first decision is reported at 374 F. Supp. 4 and the second at 377 F. Supp. 475.

The "120 day decision" found that "L&HR cannot be reorganized on an income basis within a reasonable time and that the public interest requires reorganization under " The Act. This determination was made pursuant to the requirements of the first sentence of Section 207 (b).

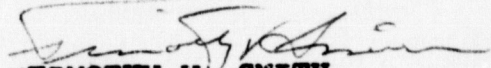
The "180 day decision" found that L&HR would not reorganize under The Act because "the Act does not provide a process which is fair and equitable to the estate of the railroad." The Court's determination was made on the "reasons set forth in that decision, which are equally applicable to this railroad." The Court was referring to a determination made by a three-judge Court sitting in the Eastern District of Pennsylvania in Connecticut General Ins. Corp. et al v. United States Railway Assn. et al. (USDC ED Pa., No. 74-189), decided June 25, 1974.

POSITION OF THE TRUSTEE AS APPELLEE

The Trustee of Debtor herein incorporates hereby the brief of The United States of America and adopts it as his own. The Trustee further is participating in the within appeal in all respects

including oral argument.

Respectfully Submitted



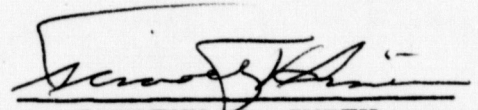
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Trustee of the Property of
THE LEHIGH AND HUDSON RIVER
RAILWAY COMPANY, Debtor,
Appellee.

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Dated: March 10, 1975

CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of March, 1975 caused copies of the foregoing Brief to be mailed to counsel for all parties to this proceeding.


TIMOTHY V. SMITH

